

keep confidential any information that is marked confidential or proprietary and will exempt it from public release to the extent allowed by law and in accordance with 43 CFR part 2. We may, at our discretion, treat a lessee's failure to cooperate with such request, provide data, or grant access to information or records as a lease violation.

§ 162.028 How may an Indian tribe obtain information about leases on its land?

Upon request of the Indian tribe with jurisdiction, BIA will promptly provide information on the status of leases on tribal land, without requiring a Freedom of Information Act request.

§ 162.029 How does BIA provide notice to the parties to a lease?

(a) When this part requires us to notify the parties of the status of our review of a lease document (including but not limited to, providing notice to the parties of the date of receipt of a lease document, informing the parties of the need for additional review time, and informing the parties that a lease proposal package is not complete):

(1) For leases of tribal land, we will notify the lessee and the tribe by mail; and

(2) For leases of individually owned Indian land, we will notify the lessee by mail and, where feasible, the individual Indian landowners either by constructive notice or by mail.

(b) When this part requires us to notify the parties of our determination to approve or disapprove a lease document, and to provide any right of appeal:

(1) For leases of tribal land, we will notify the lessee and the tribe by mail; and

(2) For leases of individually owned Indian land, we will notify the lessee by mail and the individual Indian landowners either by constructive notice or by mail.

Subpart B—Agricultural Leases

§ 162.101 What key terms do I need to know for this subpart?

For purposes of this subpart:

Adult means an individual who is 18 years of age or older.

Agricultural land means Indian land or Government land suited or used for the production of crops, livestock or other agricultural products, or Indian land suited or used for a business that supports the surrounding agricultural community.

Agricultural lease means a lease of agricultural land for farming and/or grazing purposes.

AIARMA means the American Indian Agricultural Resources Management Act of December 3, 1993 (107 Stat. 2011, 25 U.S.C. 3701 *et seq.*), as amended on November 2, 1994 (108 Stat. 4572).

Assignment means an agreement between a tenant and an assignee, whereby the assignee acquires all of the tenant's rights, and assumes all of the tenant's obligations, under a lease.

BIA means the Bureau of Indian Affairs within the Department of the Interior and any tribe acting on behalf of BIA under § 162.109 of this part.

Bond means security for the performance of certain lease obligations, as furnished by the tenant, or a guaranty of such performance as furnished by a third-party surety.

Day means a calendar day.

Emancipated minor means a person under 18 years of age who is married or who is determined by a court of competent jurisdiction to be legally able to care for himself or herself.

Fair annual rental means the amount of rental income that a leased tract of Indian land would most probably command in an open and competitive market.

Fee interest means an interest in land that is owned in unrestricted fee status, and is thus freely alienable by the fee owner.

Fractionated tract means a tract of Indian land owned in common by Indian landowners and/or fee owners holding undivided interests therein.

Government land means any tract, or interest therein, in which the surface estate is owned by the United States and administered by BIA, not including tribal land that has been reserved for administrative purposes.

Immediate family means a spouse, brother, sister, lineal ancestor, lineal descendant, or member of the household of an individual Indian landowner.

Indian land means any tract in which any interest in the surface estate is owned by a tribe or individual Indian in trust or restricted status.

Indian landowner means a tribe or individual Indian who owns an interest in Indian land in trust or restricted status.

Individually-owned land means any tract, or interest therein, in which the surface estate is owned by an individual Indian in trust or restricted status.

Interest, when used with respect to Indian land, means an ownership right to the surface estate of Indian land that is unlimited or uncertain in duration, including a life estate.

Lease means a written agreement between Indian landowners and a tenant or lessee, whereby the tenant or lessee is granted a right to possession of Indian land, for a specified purpose and duration. Unless otherwise provided, the use of this term will also include permits, as appropriate.

Lessee means tenant, as defined in this section.

Life estate means an interest in Indian land that is limited, in duration, to the life of the life tenant holding the interest, or the life of some other person.

Majority interest means more than 50% of the trust or restricted interests in a tract of Indian land.

Minor means an individual who is less than 18 years of age.

Mortgage means a mortgage, deed of trust or other instrument that pledges a tenant's leasehold interest as security for a debt or other obligation owed by the tenant to a lender or other mortgagee.

NEPA means the National Environmental Policy Act (42 U.S.C. § 4321, *et seq.*)

Non compos mentis means a person who has been legally determined by a court of competent jurisdiction to be of unsound mind or incapable of managing his or her own affairs.

Permit means a written agreement between Indian landowners and the applicant for the permit, also referred to as a permittee, whereby the permittee is granted a revocable privilege to use Indian land or Government land, for a specified purpose.

Remainder means an interest in Indian land that is created at the same time as a life estate, for the use and enjoyment of its owner after the life estate terminates.

Restricted land or restricted status means land the title to which is held by an individual Indian or a tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary because of limitations contained in the conveyance instrument pursuant to federal law.

Secretary means the Secretary of the Interior or an authorized representative.

Sublease means a written agreement by which the tenant grants to an individual or entity a right to possession no greater than that held by the tenant under the lease.

Surety means one who guarantees the performance of another.

Tenant means a person or entity who has acquired a legal right of possession to Indian land by a lease or permit under this part.

Trespass means an unauthorized possession, occupancy or use of Indian land.

Tribal land means the surface estate of land or any interest therein held by the United States in trust for a tribe, band, community, group or pueblo of Indians, and land that is held by a tribe, band, community, group or pueblo of Indians, subject to federal restrictions against alienation or encumbrance, and includes such land reserved for BIA administrative purposes when it is not immediately needed for such purposes. The term also includes lands held by the United States in trust for an Indian corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. § 476).

Tribal laws means the body of law that governs land and activities under the jurisdiction of a tribe, including ordinances and other enactments by the tribe, tribal court rulings, and tribal common law.

Trust land means any tract, or interest therein, that the United States holds in trust status for the benefit of a tribe or individual Indian.

Undivided interest means a fractional share in the surface estate of Indian land, where the surface estate is owned

in common with other Indian landowners or fee owners.

Us/We/Our means the Secretary or BIA and any tribe acting on behalf of the Secretary or BIA under § 162.110 of this part.

USPAP means the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Standards Board of the Appraisal Foundation to establish requirements and procedures for professional real property appraisal practice.

[66 FR 7109, Jan. 22, 2001, as amended at 77 FR 72474, Dec. 5, 2012]

§ 162.105 Can tracts with different Indian landowners be unitized for agricultural leasing purposes?

(a) An agricultural lease negotiated by Indian landowners may cover more than one tract of Indian land, but the minimum consent requirements for leases granted by Indian landowners under subparts B through D of this part will apply to each tract separately. We may combine multiple tracts into a unit for leases negotiated or advertised by us, if we determine that unitization is in the Indian landowners' best interests and consistent with the efficient administration of the land.

(b) Unless otherwise provided in the agricultural lease, the rent or other consideration derived from a unitized agricultural lease will be distributed based on the size of each landowner's interest in proportion to the acreage within the entire unit.

[66 FR 7109, Jan. 22, 2001, as amended at 77 FR 72474, Dec. 5, 2012; 78 FR 19100, Mar. 29, 2013]

§ 162.106 What will BIA do if possession is taken without an approved agricultural lease or other proper authorization?

(a) If an agricultural lease is required, and possession is taken without an agricultural lease by a party other than an Indian landowner of the tract, we will treat the unauthorized use as a trespass. Unless we have reason to believe that the party in possession is engaged in negotiations with the Indian landowners to obtain an agricultural lease, we will take action to recover possession on behalf of the Indian land-

owners, and pursue any additional remedies available under applicable law.

(b) Where a trespass involves Indian agricultural land, we will also assess civil penalties and costs under part 166, subpart I, of this chapter.

[66 FR 7109, Jan. 22, 2001, as amended at 77 FR 72474, Dec. 5, 2012; 78 FR 19100, Mar. 29, 2013]

§ 162.107 What are BIA's objectives in granting or approving agricultural leases?

We will assist Indian landowners in leasing their land for agricultural purposes. For the purposes of §§ 162.102 through 162.256:

(a) We will assist Indian landowners in leasing their land, either through negotiations or advertisement. In reviewing a negotiated lease for approval, we will defer to the landowners' determination that the lease is in their best interest, to the maximum extent possible. In granting a lease on the landowners' behalf, we will obtain a fair annual rental and attempt to ensure (through proper notice) that the use of the land is consistent with the landowners' wishes. We will also recognize the rights of Indian landowners to use their own land, so long as their Indian co-owners are in agreement and the value of the land is preserved.

(b) We will recognize the governing authority of the tribe having jurisdiction over the land to be leased, preparing and advertising leases in accordance with applicable tribal laws and policies. We will promote tribal control and self-determination over tribal land and other land under the tribe's jurisdiction, through contracts and self-governance compacts entered into under the Indian Self-Determination and Education Assistance Act, as amended, 25 U.S.C. § 450f *et seq.*

[66 FR 7109, Jan. 22, 2001, as amended at 77 FR 72474, Dec. 5, 2012]

§ 162.108 What are BIA's responsibilities in administering and enforcing agricultural leases?

(a) We will ensure that tenants meet their payment obligations to Indian landowners, through the collection of rent on behalf of the landowners and the prompt initiation of appropriate collection and enforcement actions. We